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NORTH DISTRICT OF CALIFORNIA

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TAXPAYERS AGAINST FRAUD, LLC

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA, *ex rel.* TAXPAYERS
AGAINST FRAUD, LLC,

Plaintiff,

vs.

HUMANGOOD NORCAL CORP, HUMANGOOD
SOCAL CORP, HUMANGOOD NEVADA CORP,
HUMANGOOD IDAHO CORP, HUMANGOOD
PENNSYLVANIA CORP, HUMANGOOD FRESNO
CORP, HUMANGOOD ARIZONA INC.,
HUMANGOOD WASHINGTON CORP,
and DOES I -X,

Defendants.

**COMPLAINT FOR VIOLATION OF
FEDERAL FALSE CLAIMS ACT
[31 UNITED STATES CODE § 3730]**

**FILED UNDER SEAL
[DO NOT PLACE ON PACER]**

PLAINTIFF DEMANDS TRIAL BY JURY

Case No.

Judge:

CV24-6344

AGT

COMPLAINT

I. INTRODUCTION

1. This is a qui tam action filed under the False Claims Act, 31 U.S.C. § 3729, et seq. (the “FCA”), arising from false and fraudulent statements, certifications, and conduct by Defendants in connection with application for, receipt and retention of Paycheck Protection Program (“PPP”) funds arising out of and during the coronavirus, COVID-19 pandemic.

1 2. Faced with the coronavirus pandemic threat, Congress enacted the Coronavirus Aid Relief,
2 and Economic Security Act (“CARES Act”), which included the Paycheck Protection Program (“PPP”),
3 a program implemented by the United States Small Business Administration (“SBA”) with support from
4 the Department of the Treasury. The Paycheck Protection Program authorized loans to small businesses,
5 enabling them to retain workers and pay certain other expenses through the severe economic disruption
6 caused by the pandemic.

7
8 3. The SBA passed rules limiting the types of borrowers who were eligible to receive PPP
9 loans and those eligible for forgiveness of their loans. These limitations included criteria based on
10 employee headcount, revenue volume and net worth, all designed to ensure that properly qualified
11 borrowers would receive funds which would allow them to keep their workers on payroll during the
12 pandemic disruption.

13 4. On March 26, 2021, the United States Office of Public Affairs released the following
14 statement: “The Department of Justice has led an historic enforcement initiative to detect and disrupt
15 COVID-19 related fraud schemes,” said Attorney General Merrick B. Garland. “The impact of the
16 department’s work to date sends a clear and unmistakable message to those who would exploit a national
17 emergency to steal taxpayer-funded resources from vulnerable individuals and small businesses. We are
18 committed to protecting the American people and the integrity of the critical lifelines provided for them
19 by Congress, and we will continue to respond to this challenge.”

20
21 5. This action alleges that each Defendant was factually and legally ineligible to receive PPP
22 funds under the underwriting standards established by the SBA eligibility rules. Plaintiff will show,
23 using factual and evidentiary proof, that Defendants fraudulently applied for and received PPP loans in
24 violation of the False Claims Act and/or fraudulently requested and received PPP loan forgiveness.

25 6. This Action is brought by the Relator Taxpayers Against Fraud, LLC (“Relator”) on behalf
26 of the United States of America (the “United States” or the “Government”) and against named
27 defendants, HumanGood NorCal Corporation, HumanGood SoCal Corporation, HumanGood Nevada
28 Corporation, HumanGood Idaho Corporation, HumanGood Pennsylvania Corporation, HumanGood

1 Fresno Corporation, HumanGood Arizona Inc., and HumanGood Washington Corporation, alleging
2 violations of the FCA. Relator claims entitlement to a portion of any recovery obtained by the United
3 States as a *qui tam* plaintiff, as authorized in 31 U.S.C. § 3730 and related statutes.

4 7. Through this action, Relator seeks to recover millions of dollars in damages and civil
5 penalties on behalf of the United States of America arising out of Defendants' and/or their agents and
6 employees' multiple false and fraudulent applications, certifications, representations, records, statements
7 and claims, which were made and/or caused to be made to the SBA or its approved lenders, in order to
8 procure PPP loans and/or to achieve forgiveness of PPP loans, in violation of the FCA. As a direct result
9 of their false and fraudulent statements, applications, certifications, and representations to the SBA and
10 its approved lenders, Defendants collectively obtained \$31,479,725 (Thirty-One Million Four Hundred
11 Seventy-Nine Thousand Seven Hundred Twenty-Five Dollars) in PPP loans they were not eligible to
12 receive.
13

14 8. Through this action, Relator seeks to recover \$32,122,954 (Thirty-Two Million One
15 Hundred Twenty-Two Thousand Nine Hundred Fifty-Four Dollars) or more in damages, plus civil
16 penalties, attorneys' fees, fees paid by the SBA for loan processing, accrued interest and allowable costs
17 on behalf of the United States of America, arising out of Defendant's and/or its agents' and employees'
18 false and fraudulent applications, certifications, representations, records, statements, and claims, made
19 and/or caused to be made by Defendants to the SBA or its approved lenders, in acquiring PPP loans, and
20 later receiving forgiveness of those loans, all in violation of and as authorized under the FCA.
21

22 9. In October 2009, the Government Accountability Office released Report 10-108, in that
23 instance involving loan funding for assistance to service-disabled veterans,¹ which found in relevant part
24 that: "By failing to hold firms [i.e., ineligible, fraudulent borrowers] accountable, SBA and contracting
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27
28 ¹ Case Studies Show Fraud and Abuse Allowed Ineligible Firms to Obtain Millions of Dollars.
<https://www.gao.gov/assets/gao-10-108.pdf>

1 agencies have sent a message to the contracting community that there is no punishment or consequences
2 for committing fraud." The instant civil action is an effort to assist the SBA in fulfilling its objective of
3 holding fraudulent, non-entitled PPP borrowers accountable to clearly-defined and readily understood
4 lending standards and to recoup the Government's monetary losses resulting from these PPP-Borrower
5 Defendants' fraudulent acquisition and/or forgiveness of PPP loan funding.
6

7 **II. PARTIES, JURISDICTION, AND VENUE**

8
9 10. Relator, Taxpayers Against Fraud, LLC, is a Wyoming Limited Liability Company (herein
10 "Relator" or "Plaintiff") formed and dedicated to providing fraud notification to the Government through
11 the U.S. SBA Office of Inspector General (SBA-OIG) and the United States Department of Justice
12 (DOJ), for the ultimate benefit of the U.S. Treasury and taxpayers. Relator has engaged in extensive and
13 costly research and investigations to compile evidence, data, information, and documentation concerning
14 Defendants' fraudulent PPP loans and subsequent loan forgiveness, and to provide that evidence to
15 government attorneys, agencies, and prosecutors, inclusive of the DOJ and SBA, to recoup ill-gotten
16 gains, damages, fees costs, interest and civil penalties from the fraudulent PPP borrowers. The Relator's
17 team includes an experienced SEC fraud investigator, a former FBI financial crimes analyst, and an
18 expert in material disclosures to public securities markets.
19

20 11. Defendant, HumanGood NorCal, is a California corporation or other legally formed entity,
21 organized, existing, and conducting business at 110 41st St. Oakland, CA 94611.

22 12. Defendant, HumanGood SoCal, is a California corporation or other legally formed entity,
23 organized, existing, and conducting business at 1900 Huntington Dr. Duarte, CA 91010.

24 13. Defendant, HumanGood Nevada, is a California corporation or other legally formed entity,
25 organized, existing, and conducting business at 1900 Huntington Dr. Duarte, CA 91010.

26 14. Defendant, HumanGood Idaho, is a California corporation or other legally formed entity,
27 organized, existing, and conducting business at 1900 Huntington Dr. Duarte, CA 91010.
28

1 15. Defendant, HumanGood Pennsylvania, is a Pennsylvania corporation or other legally
2 formed entity, organized, existing, and conducting business at 2002 Joshua Rd. Lafayette Hill, PA
3 919444.

4 16. Defendant, HumanGood Fresno, is a California corporation or other legally formed entity,
5 organized, existing, and conducting business at 1900 Huntington Dr. Duarte, CA 91010.

6 17. Defendant, HumanGood Arizona Inc., is an Arizona corporation or other legally formed
7 entity, organized, existing, and conducting business at 1900 Huntington Dr. Duarte, CA 91010.

8 18. Defendant, HumanGood Washington, is a Washington corporation or other legally formed
9 entity, organized, existing, and conducting business at 1900 Huntington Dr. Duarte, CA 91010.

10 19. All of the Defendants named in this Complaint operate under law as non-profit
11 organizations exempt from state and federal tax obligations. A non-profit organization operates for
12 purposes other than generating profits, by which no part of the organization's income is distributed to its
13 members, directors, or officers. Plaintiff alleges that Defendants enjoyed that tax-exempt status while
14 applying for and receiving the fraudulently induced PPP loans.

15 20. Some states, have adopted the Revised Model Nonprofit Corporation Act (1986). Under the
16 Revised Model Nonprofit Corporation Act (1987) § 14.30, a court may dissolve a non-profit corporation
17 (1) in a proceeding by the attorney general if it is established that the corporation has continued to
18 exceed or abuse the authority conferred upon it by law; or if the directors or those in control of the
19 corporation have acted, are acting or will act in a manner that is illegal, oppressive or fraudulent.

20 21. CA Rev & Tax Code Section 23701(3) provides: If, for federal income tax purposes, an
21 organization's exemption from tax as an organization described in Section 501(c)(3), (c)(4), (c)(5),
22 (c)(6), or (c)(7) of the Internal Revenue Code is suspended or revoked, the organization shall notify the
23 Franchise Tax Board of the suspension or revocation, in the form and manner prescribed by the
24 Franchise Tax Board. Upon notification, the board shall suspend or revoke, whichever is applicable, for
25 state income tax purposes, the organization's exemption under paragraph (1). Also see: California
26 Revenue and Taxation Code Section 23775 which provides the Franchise Tax Board with the authority
27
28

1 to revoke tax-exempt status if an organization fails to comply with the requirements or engages in
2 activities that are inconsistent with its exempt purposes.

3 22. Government agencies, such as the Internal Revenue Service (IRS), can take action against a
4 not-for-profit corporation for their fraudulent activities, including revoking their tax-exempt status.
5 Other consequences that may result from a not-for-profit's fraudulent improper conduct include the
6 potential imposition of back taxes, and the individuals perpetrating the fraud being subject to civil and/or
7 criminal penalties. The seriousness of these consequences underscores the importance of transparency,
8 integrity, and lawful compliance with PPP loan eligibility and compliance rules by tax-exempt entities,
9 such as Defendants, which Relator alleges here were violated.
10

11 23. Plaintiff/Relator is informed and believes and thereon alleges that the information,
12 allegations, and transactions involving Defendants that are the subject of this Complaint are not the
13 subject of a civil suit or an administrative civil monetary penalty proceeding in which the Government is
14 already a party. Plaintiff/Relator is further informed and believes and thereon alleges that the
15 information, allegations, and transactions that are the subject of this Complaint have not been "publicly
16 disclosed" in any of the manners specified in 31 U.S.C. § 3730(e).² Moreover, even if such a public
17 disclosure had occurred, of which Relator is unaware, Relator would be considered an "original source"
18 for substantial investigation, information discovery, and analysis on which the allegations or transactions
19 in this Complaint are based. 31 USC § 3730(e)(4)(B)(2).
20

21 24. Moreover, although the simple fact that the Defendants applied for and received PPP
22 funding was publicly disclosed by the SBA and possibly elsewhere, Taxpayers Against Fraud, LLC,
23 through its extensive, independent research and investigation, has acquired, maintains, and protects as
24 private and confidential, unique and proprietary facts, data, information and knowledge obtained
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27
28 ² Section 3730(e)'s public-disclosure bar was once deemed jurisdictional in nature but that is no longer the case after amendments to the FCA that were enacted in 2010 as part of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, § 10104(j)(2), 124 Stat. 119, 901-02.

1 independently from, and which materially add to any publicly disclosed information, allegations, facts or
2 transactions. Taxpayers Against Fraud, LLC provided, from their proprietary database, independent and
3 material information relating to this Complaint to the United States Attorney for this District prior to
4 filing this action, as required by 31 U.S.C. § 3730 (e)(4)(B)(2).

5 25. Relator, through diligent use of its unique and proprietary database, compiled through
6 extensive independent investigations, paid research, and requests using the Freedom of Information Act
7 (FOIA), provides, in this Sealed Complaint, certain invaluable and highly relevant, originally sourced
8 documentary evidence and related factual information concerning each Defendant and their actions,
9 which justifies the Government, acting through the USDOJ, in exercising its veto power over any
10 defensive assertion of the public disclosure bar.³

11 26. This action arises under the False Claims Act, 31 U.S.C. §§ 3729-3733. This Court has
12 jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 (Federal Question) and 31
13 U.S.C. § 3732, the latter of which specifically confers jurisdiction in this District Court for actions
14 brought under 31 U.S.C. §§ 3729 and 3730.

15 27. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and 31 U.S.C. § 3732(a), as one
16 or more of the defendants resides or transacts business in this jurisdiction and violations of the False
17 Claims Act described herein occurred in this District.

18 28. Pursuant to U.S.C. § 3730(b), this Complaint is to be filed *in camera* and to remain under
19 seal for at least sixty days and shall not be served on any Defendant until the Court so orders. The
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26 ³ In the alternative, even if a public disclosure did occur and Taxpayers Against Fraud, LLC fails to qualify as an
27 original source, the Government has the sole veto power, under 31 U.S.C. § 3730(e)(4)(A), to oppose any motion to
28 dismiss based on that public disclosure bar, and, in that circumstance, the action is not subject to dismissal. (In a
recent decision, U.S. ex rel. Vermont National Telephone Co. v. Northstar Wireless LLC, No. 15-0728, __ F. Supp.
3d __, 2023 WL 7407301 (D.D.C. Nov. 19, 2023), a district court confirmed that the government's veto power over
a dismissal based on the public disclosure bar of the False Claims Act (FCA) is absolute and can be effectuated by a
mere notice of the government's opposition.)

1 Government may elect to intervene and proceed with the action within sixty days after the Government
2 receives the Complaint or at such other time as the Court may order.

3
4 **III. SBA LOAN FACTS**

5 29. HumanGood NorCal Corporation received a first draw PPP loan number 1048448901 on
6 4/24/2021 in the amount of \$10,000,000 (Ten Million Dollars). On 6/8/2022, this loan, including
7 accrued interest totaling \$10,110,833 (Ten Million, One Hundred Ten Thousand, Eight Hundred Thirty-
8 Three Dollars), was forgiven.

9
10 30. HumanGood SoCal Corporation received a first draw PPP loan number 1303388905 on
11 4/24/2021 in the amount of \$9,245,858 (Nine Million Two Hundred Forty-Five Thousand Eight Hundred
12 Fifty-Eight Dollars). On 7/20/2022, this loan, including accrued interest totaling \$9,359,377 (Nine
13 Million, Three Hundred Fifty-Nine Thousand, Three Hundred Seventy-Seven Dollars), was forgiven.

14 31. HumanGood Nevada Corporation received a first draw PPP loan number 9540138802 on
15 4/23/2021 in the amount of \$1,708,006 (One Million Seven Hundred Eight Thousand Six Dollars). On
16 6/7/2022, this loan, including accrued interest totaling \$1,726,936 (One Million Seven Hundred Twenty-
17 Six Thousand Nine Hundred Thirty-Six Dollars), was forgiven.

18
19 32. HumanGood Idaho Corporation received a first draw PPP loan number 9189968806 on
20 4/23/2021 in the amount of \$1,077,332 (One Million, Seventy-Seven Thousand, Three Hundred Thirty-
21 Two Dollars). On 1/3/2022, this loan, including accrued interest totaling \$1,083,886 (One Million,
22 Eighty-Three Thousand, Eight Hundred Eighty-Six Dollars), was forgiven.

23 33. HumanGood Pennsylvania Corporation received a first draw PPP loan number 8704708810
24 on 4/22/2021 in the amount of \$3,814,100 (Three Million, Eight Hundred Fourteen Thousand, One
25 Hundred Dollars). On 2/4/2022, this loan, including accrued interest totaling \$3,842,836 (Three Million
26 Eight Hundred Forty-Two Thousand Eight Hundred Thirty-Six Dollars), was forgiven.

27 34. HumanGood Fresno Corporation received a first draw PPP loan number 9478578803 on
28 4/23/2021 in the amount of \$1,813,761 (One Million, Eight Hundred Thirteen Thousand, Seven Hundred

Sixty-One Dollars). On 1/3/2022, this loan, including accrued interest totaling \$1,826,105 (One Million Eight Hundred Twenty-Six Thousand One Hundred Five Dollars), was forgiven.

35. HumanGood Arizona Inc. received a first draw PPP loan number 9240128808 on 4/23/2021 in the amount of \$1,716,558 (One Million, Seven Hundred Sixteen Thousand, Five Hundred Fifty-Eight Dollars). On 1/3/2022, this loan, including accrued interest totaling \$1,728,240 (One Million Seven Hundred Twenty-Eight Thousand Two Hundred Forty Dollars), was forgiven.

36. HumanGood Washington Corporation received a first draw PPP loan number 9627738808 on 4/23/2021 in the amount of \$2,104,110 (Two Million, One Hundred Four Thousand, One Hundred Ten Dollars). On 7/20/2022, this loan, including accrued interest totaling \$2,129,944 (Two Million, One Hundred Twenty-Nine Thousand, Nine Hundred Forty-Four Dollars), was forgiven.

IV. LEGAL AND REGULATORY FRAMEWORK

A. Overview of the False Claims Act, as Applicable to This Complaint

37. Originally enacted in the 1860s to combat fraud against the Union Army during the Civil War, the False Claims Act is the primary tool with which the United States combats false or fraudulent claims against the government and protects federal funds. The False Claims Act provides that a person is liable to the United States Government for each instance in which the person knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval. 31 U.S.C. § 3729(a)(1)(A).⁴

38. The False Claims Act also makes liable any person who “knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim.” 31 U.S.C. § 3729(a)(1)(B).

⁴ While the submission of false or fraudulent claims to the Government for payment is the primary act punishable under the FCA, the Act also prohibits similar fraudulent conduct, including making false records or statements material to a false claim, § 3729(a)(1)(B), conspiring to violate the FCA, § 3729(a)(1)(C), and others, § 3729(a)(1)(D)-(G).

1 39. The False Claims Act also contains a “reverse false claim” provision, which makes liable
2 any person who “knowingly makes, uses, or causes to be made or used, a false record or statement
3 material to an obligation to pay or transmit money or property to the Government, or knowingly conceals
4 or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to
5 the Government.” 31 U.S.C. § 3729(a)(1)(G). The term obligation includes “the retention of any
6 overpayment.” *Id.* § 3729(b)(3). An “overpayment” means any funds that a person or entity receives or
7 retains to which that person or entity is not entitled. 42 U.S.C. § 1320a–7k(d)(4)(B).

8
9 40. The False Claims Act defines “knowingly” to mean that a person “(i) has actual knowledge
10 of the information; (ii) acts in deliberate ignorance of the truth or falsity of the information; or (iii) acts
11 in reckless disregard of the truth or falsity of the information.” 31 U.S.C. § 3729(b)(1)(A). The False
12 Claims Act provides that no proof of specific intent to defraud is required. 31 U.S.C. § 3729 (b)(1)(B).

13 41. The False Claims Act defines the term “material” as “having a natural tendency to
14 influence, or be capable of influencing, the payment or receipt of money or property.” 31 U.S.C. §
15 3729(b)(4).

16 42. The False Claims Act defines the term “claim” to mean, in relevant part: “any request or
17 demand, whether under a contract or otherwise, for money or property and whether or not the United
18 States has title to the money or property, that: (i) is presented to an officer, employee, or agent of the
19 United States; or (ii) is made to a contractor, grantee, or other recipient, if the money or property is to be
20 spent or used on the Government’s behalf or to advance a Government program or interest, and if the
21 United States Government; (iii) provides or has provided any portion of the money or property requested
22 or demanded; or (iv) will reimburse such contractor, grantee, or other recipient for any portion of the
23 money or property which is requested or demanded.” 31 U.S.C. § 3729(b)(2)(A).

24
25 43. The Supreme Court has held that the False Claims Act’s provisions must be construed
26 broadly to reach “all types of fraud, without qualification, that might result in financial loss to the
27 Government.” *United States v. Neifert-White Co.*, 390 U.S. 228, 232 (1968). A request for payment
28 made under a federal loan guarantee that was obtained in violation of a statute, regulation, or program

1 requirement, by the use of a false statement or by means of other fraudulent conduct, qualifies as a
 2 “claim” under the False Claims Act. *Id.* at 232-33 (noting that the term “claim” is not limited to legally
 3 enforceable claims but includes all fraudulent attempts to cause government to pay out money).

4 44. The False Claims Act is an “expansive” statute, reaching “all types of fraud, without
 5 qualification, that might result in financial loss to the Government.” *Cook County, Ill. v. United States*
 6 *ex rel. Chandler*, 538 U.S. 119, 129 (2003) (quoting *Neifert-White Co.*, 390 U.S. at 232).

7 45. Any person who violates the False Claims Act “is liable to the United States Government
 8 for a civil penalty of not less than [\$13,508] and not more than [\$27,018], plus three times the amount of
 9 the damages which the Government sustains because of the act of that person.” 31 U.S.C. § 3729(a)(1)
 10 (emphasis added); 28 C.F.R. § 85.5(a); Pub. L. No. 101-410.⁵

11 46. The provisions of the FCA can be enforced by the DOJ, which is empowered to bring
 12 actions of its own accord (*see* § 3730(a)), but the FCA also allows private individuals with knowledge of
 13 fraud to bring a suit on behalf of the government. § 3730(b)(1). These whistleblowers are known as *qui*
 14 *tam* relators.

15 47. Relators are an important means of unearthing fraud on the Government. The United States
 16 Department of Justice has estimated that government fraud drains as much as 10% of the total federal
 17 budget but noted that “most fraud goes undetected.”⁶ Whistleblower actions by private relators account
 18 for 64% of all successful FCA recoveries by the Government.⁷ Without the assistance of these
 19 whistleblowers, the majority of fraud against public assets would go unaddressed. Wherever there is a
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23
 24
 25 ⁵ The exact amount of civil penalties actually increases over the years because they are subject to adjustment under
 26 the Federal Civil Penalties Inflation Adjustment Act of 1990. § 3729(a)(1) (citing Federal Civil Penalties Inflation
 27 Adjustment Act of 1990, Pub. L. No. 101-410, § 5, 104 Stat. 890).

28 ⁶ S. Rep. No. 99-345, at 2 (1986), as reprinted in 1986 U.S.C.C.A.N. 5266, 5268.

⁷ U.S. Gov’t Accountability Off., Information on False Claims Act Litigation 5 (2006),
<https://www.gao.gov/new.items/d06320r.pdf>.

1 significant investment of public assets, whistleblower programs like the FCA are necessary to ensure that
2 those assets are used efficiently.

3 48. To encourage relators to come forward and bring to light allegations of fraud that they are
4 aware of, the FCA entitles relators to a portion of any monetary recovery obtained in a *qui tam* case. §
5 3730(d)(1), (2). In cases in which the Government intervenes, the relator's share typically ranges from
6 15-25% of the total recovery, with the precise amount determined based on, *inter alia*, the relator's
7 specific contributions to the action and whether the Government intervenes to pursue the claim.⁸ Given
8 the large recoveries under the FCA's treble damages regime, the relator's share serves as a powerful
9 incentive for would-be whistleblowers.
10

11 12 **V. THE SBA PAYCHECK PROTECTION PROGRAM**

13 **A. SBA Loan Programs in General**

14 49. Created in 1953, the mission of the United States Small Business Administration is to help
15 small business owners and entrepreneurs pursue the American dream. The SBA is a cabinet-level
16 agency of the United States. It is fully dedicated to small businesses and provides counseling, capital,
17 and contracting expertise as the nation's only go-to resource and voice for small businesses.
18

19 50. The SBA works with lenders to provide loans to small businesses. The SBA doesn't lend
20 money directly to small business owners. Instead, it sets guidelines for loans made by its partnering
21 lenders, community development organizations, and micro-lending institutions.
22
23
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26 ⁸ Under § 3730(d)(1), if the Government intervenes, the relator is entitled to "receive at least 15 percent but not more
27 than 25 percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the
28 person substantially contributed to the prosecution of the action." If the Government declines to intervene, the
relator can receive an even larger share, between 25 percent and 30 percent of the case proceeds. § 3730(d)(2). If the
Court finds that the relator planned and initiated false claims, they may be dismissed from the action and will
receive no share of the recovery. § 3730(d)(3).

1 51. Loans guaranteed by the SBA range from small to large and can be used for most business
2 purposes, including long-term fixed assets and operating capital. Certain loan programs set restrictions
3 on how businesses can use the funds.

4 52. Additionally, SBA loan programs have unique eligibility requirements. In general,
5 eligibility is based on what a business does to receive its income, the character of its ownership, and
6 where the business operates. Qualified businesses must meet size standards, be able to repay, and have a
7 sound business purpose.
8

9
10 **B. The Paycheck Protection Program - PPP**

11 53. The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act was a federal law
12 enacted in March, 2020 to provide financial assistance to Americans suffering economic harm resulting
13 from the COVID-19 pandemic. One source of relief provided by the CARES Act was the authorization
14 of forgivable loans to small businesses, which would facilitate employee retention through the
15 maintenance of payroll, despite drastic reductions in company revenue and possible worker “layoffs”
16 and certain other expenses. This was accomplished through a program referred to as the Paycheck
17 Protection Program (PPP).
18

19 54. To obtain a PPP loan, a qualifying business submitted a PPP loan application which was
20 signed by an authorized representative of the business. The PPP loan application required the business
21 (through its authorized representative) to acknowledge the PPP program’s rules and to make certain
22 affirmative certifications to receive the PPP loan, including representations that the business was in
23 operation on February 15, 2020. The business was also required to provide, among other things, its (a)
24 average monthly payroll expenses and (b) number of employees (headcount). These figures were used to
25 determine eligibility and to calculate the amount of money the business was eligible to receive under the
26 PPP. In addition, businesses applying for a PPP loan were required to provide documentation of their
27 payroll expenses.
28

1 55. The CARES Act required PPP loan applications to be processed by a participating lender.
2 If a PPP loan application was approved, the participating lender funded the PPP loan using its own
3 monies, which were guaranteed by the Small Business Administration (“SBA”). Data from the
4 application, including information about the borrower, the total amount of the loan, the listed number of
5 employees, and the volume of the business were transmitted by the lender to the SBA, which then relied
6 on those representations in processing the application and approving the loan.
7

8 56. PPP loan proceeds were required to be used by the business for certain permissible
9 expenses such as payroll costs, interest on mortgages, rent, and utilities. The PPP allowed the interest
10 and principal on the PPP loan to be entirely forgiven if the business spent the loan proceeds on eligible
11 expense items within a designated period, and used a defined portion of the PPP loan proceeds on
12 payroll expenses.
13

14 **C. Laws, Regulations, and Guidance for the PPP**

15 57. On March 27, 2020, the President signed the Coronavirus Aid, Relief, and Economic
16 Security Act (the “CARES Act”) (Pub. L. 116-136) to provide emergency assistance and health care
17 response for individuals, families, and businesses affected by the coronavirus pandemic. The SBA
18 received funding and authority through the CARES Act to modify existing loan programs and establish a
19 new loan program to assist small businesses nationwide adversely impacted by the COVID-19
20 emergency.
21

22 58. Section 1102 of the Act temporarily permits SBA to guarantee 100 percent of 7(a) loans
23 under a new program titled the Paycheck Protection Program (“PPP”). Section 1106 of the Act provides
24 for forgiveness of up to the full principal amount of qualifying loans guaranteed under the PPP.
25

26 59. Title I of the CARES Act established PPP under a new Section, 7(a)(36) of the Small
27 Business Act of 1953 (the “Small Business Act”). PPP was subsequently expanded by the Paycheck
28 Protection Program and Health Care Enhancement Act, which was signed into law on April 24, 2020,

1 and extended by the Paycheck Protection Program Flexibility Act (the “Flexibility Act”), which was
2 signed into law on June 5, 2020.

3 60. The SBA and the United States Department of the Treasury (“Treasury”) worked together
4 to implement the PPP, releasing regulations and guidance on a regular basis.

5 61. Loans issued by lenders under the PPP were 100 percent guaranteed by SBA, and the full
6 principal amount of the loans could qualify for loan forgiveness.

7 62. Because PPP is a loan program under Section 7(a) of the Small Business Act, it is subject
8 to the regulations applicable to SBA Section 7(a) business loans except when the CARES Act or
9 applicable regulations provide otherwise.
10

11 63. Section 7(a) loan regulations are generally found in 13 C.F.R. part 120. PPP was also made
12 subject to the SBA “affiliation” rules, located at 13 C.F.R. § 121.301(f).

13 64. In addition to the laws and regulations that apply to PPP loans, beginning in April 2020, the
14 SBA has on numerous occasions issued ongoing official guidance regarding PPP loans. Two of the
15 primary mechanisms used by the SBA to provide this guidance are interim final rules (“IFRs”) and
16 public answers to frequently asked questions (“SBA FAQs”). Specific guidance relevant to these actions
17 are discussed below.

18 65. SBA published its Interim Final Rule on Business Loan Program Temporary Changes;
19 Paycheck Protection Program (“IFR #1”) on April 2, 2020. Thereafter, it issued numerous additional
20 IFRs, including IFRs issued on April 3, 2020 (“IFR #2” Applicable Affiliation Rules); April 28, 2020
21 (“IFR #4” Promissory Notes, Authorizations, Affiliation, and Eligibility); April 30, 2020 (“IFR #7”
22 Corporate Groups and Non-Bank and Non-Insured Depository Institution Lenders); May 8, 2020 (“IFR
23 #9” Extension of Limited Safe Harbor with Respect to Certification Concerning Need for PPP Loan
24 Request); May 20, 2020 (“IFR #13” Second Extension of Limited Safe Harbor with Respect to
25 Certification Concerning Need for PPP Loan and Lender Reporting); May 22, 2020 (“IFR #14” Loan
26 Forgiveness; and “IFR #15” SBA Loan Review Procedures and Related Borrower and Lender
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28

Responsibilities); June 11, 2020 (“IFR #17” Revisions to First Interim Final Rule⁹); June 22, 2020 (“IFR #20” Revisions to Loan Forgiveness Interim Final Rule and SBA Loan Review Procedures Interim Final Rule¹⁰). Each of these IFRs can be found on the SBA’s website, at <https://www.sba.gov/funding-programs/loans/covid-19-relief-options/paycheck-protection-program/ppp-lender-information#id-interim-final-rules>.

66. Between April 6, 2020, and May 9, 2024, the SBA published answers to questions about the PPP program on twenty-six occasions.¹¹ These regularly updated question-and-answer documents (the “SBA FAQ”) are posted on the SBA and Treasury websites. The first version of the SBA FAQ was published on April 6, 2020, and included answers to 18 questions. By the end of April 2020, the SBA would release 7 additional versions of its FAQ, which by April 29, 2020 (version 8) had expanded to 39 questions. The most recent version (version 26) was released on May 9, 2024, and included answers to 73 questions.

D. PPP Loan Eligibility

67. A business was eligible for a First Draw PPP loan if it met any one of the following standards:

⁹ IFR #17 revised IFR #1 to account for changes made by the Flexibility Act, which was signed into law in June 2020.

¹⁰ IFR #20 revised IFR #14 and IFR #15 to account for changes made by the Flexibility Act.

¹¹ See <https://www.sba.gov/document/support-faq-ppp-borrowers-lenders>. Later versions generally included the questions from earlier versions, updating answers as needed, or if no updates were necessary, reprinting the original answers. Throughout this Complaint, Relator cites to the final Q&A version (version 26, published May 9, 2024, available at <https://www.sba.gov/sites/default/files/2024-05/FAQ%20PPP%20for%20Borrowers%20and%20Lenders%20Questions%201-73%20%28FINAL%205-9-24%29%20508.pdf>), except where it is necessary to cite to earlier versions containing information that was later changed. Where appropriate, Relator provides information about the date on which the information in the Q&A was originally published by the SBA.

1 a. *Together with its affiliates* (emphasis added), it has 500 or fewer
2 employees, regardless of their principal place of residence. See 15 U.S.C. § 636(a)(36)(D)(i)(I);
3 SBA FAQ Question 44 (published May 13, 2020).

4 b. *Together with its affiliates* (emphasis added), it meets the SBA
5 (employee-based or receipts-based) size standard for the North American Industry Classification
6 System (“NAICS”) code applicable to its primary industry.¹² See 15 U.S.C.
7 § 636(a)(36)(D)(i)(II); SBA FAQ Question 3 (published April 6, 2020).

8 c. Its primary industry is in NAICS category 72 (accommodations and
9 food service), and it has, *together with its affiliates* (emphasis added), no more than 500
10 employees per physical location. See 15 U.S.C. § 636(a)(36)(D)(iii)(I).

11 d. On its own (i.e., regardless of its affiliates), it meets the size standard
12 (employee-based or receipts-based) established by SBA for the NAICS code applicable to its
13 primary industry, and *together with its affiliates* (emphasis added), it meets the size standard
14 (employee-based or receipts-based) established by SBA for the NAICS code applicable to either
15 its primary industry or the primary industry of itself and its affiliates on a combined basis,
16 whichever standard is higher. See 13 C.F.R. § 121.301(a); SBA FAQ Question 2 (published April
17 6, 2020).

18 e. Housing cooperatives, eligible 501(c)(6) organizations and eligible
19 destination marketing organizations are eligible for a First Draw PPP Loan only if they employ no
20 more than 300 employees.

21 f. It has, *together with its affiliates* (emphasis added), \$15 million or less
22 of tangible net worth as of March 27, 2020, and \$5 million or less of average net income after
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24
25

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28 ¹² SBA size standards based on industry codes are found in 13 C.F.R. § 121.201. <https://www.ecfr.gov/on/2020-04-15/title-13/chapter-I/part-121>

1 Federal income taxes (excluding carry-over losses) for the last two full fiscal years before the date
 2 of application.¹³ See 15 U.S.C. § 632(a)(5)(B); SBA FAQ Question 2 (published April 6, 2020).

3 68. In counting employees for purposes of determining PPP eligibility, PPP applicants may use
 4 (a) their average number of employees over the previous 12 months, (b) their average number of
 5 employees for calendar year 2019, or (c) their average number of employees for each pay period during
 6 the last 12 calendar months completed prior to the loan application. If the business has been operational
 7 for less than 12 months, it may use the average number of employees for each of the pay periods that it
 8 has been operational. See 13 C.F.R. § 121.106(b); SBA FAQ Question 14 (published April 6, 2020). To
 9 meet the eligibility test of what constitutes an “employee” for PPP loan qualification, an expansive head-
 10 count test is used, which includes full-time, part-time, temporary, leased, and furloughed employees of
 11 the applicant's small business. See 13 C.F.R. § 121.106(a).

13 69. Of critical importance here, the SBA notes that “all borrowers should carefully review the
 14 required certification on the Paycheck Protection Program Borrower Application Form (SBA Form
 15 2483), stating that “current economic uncertainty makes this loan request necessary to support the
 16 ongoing operations of the Applicant.” (underscore supplied) See IFR #4 § 2(b).

17 70. SBA guidance further provides (*id*) that “Borrowers must make this certification in good
 18 faith, taking into account their current business activity and their ability to access other sources of
 19 liquidity sufficient to support their ongoing operations in a manner that is not significantly detrimental to
 20 the business.” See SBA FAQ Question 31 (published April 23, 2020).

22 71. Unlike other SBA loans, which are available only to borrowers who are unable to obtain
 23 credit from sources other than the SBA, the CARES Act waived the “credit not available elsewhere”
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 27
 28 ¹³ In order to qualify using this method, the loan recipient must have **both** a \$15 million or less of tangible net worth
 as of March 27, 2020, **and** a \$5 million or less of average net income for the last two full fiscal years.

1 requirement for PPP loans. *See* 15 U.S.C. § 636(a)(36)(I). Thus, an applicant is not specifically required
 2 to show that it is unable to obtain credit elsewhere to get a PPP loan.

3 72. Nonetheless, PPP borrowers must still certify that the PPP loan is necessary as part of the
 4 loan application and SBA FAQ Question 31 (published on April 23, 2020).

5 73. For applicants that applied for and received a PPP loan but then believed, based on
 6 subsequent SBA guidance, that they could not certify in good faith that current economic uncertainty
 7 makes their PPP loan necessary to support their ongoing operations, the SBA provided a safe harbor that
 8 permitted borrowers to repay PPP loans in full by May 18, 2020. *See* IFR #4 § 5, as modified by IFR #9
 9 and IFR #13 § 1.¹⁴ *See also* SBA FAQ Question 31, as modified by SBA FAQ Question 43 (published
 10 May 5, 2020) and SBA FAQ Question 47 (published May 13, 2020).
 11

12 74. Further, concerning this “safe harbor provision, the SBA stated that: “Any borrower that,
 13 *together with its affiliates* (emphasis added), received PPP loans with an original principal amount of
 14 less than \$2 million will be deemed to have made the required certification concerning the necessity of
 15 the loan request in good faith.” Affiliation for this purpose is determined based on the rules that apply for
 16 determining eligibility for a PPP loan. *See* SBA FAQ Question 46 (published May 13, 2020).¹⁵
 17

18 **E. SBA PPP Affiliation Rules**

19 75. The SBA defines “affiliation” as one business controlling or having the power to control
 20 another or when a third party (or parties) controls or has the power to control both businesses. *See* 13
 21 C.F.R. § 121.301(f); Affiliation Guidance. The SBA has an expansive view of what constitutes
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 25 ¹⁴ The original safe harbor deadline was May 7, 2020, but that was subsequently extended through IFR #9 and IFR
 26 #13 to May 18.

27 ¹⁵ https://www.sba.gov/sites/default/files/2023-03/Paycheck-Protection-Program-Frequently-Asked-Questions_05%2013%2020_2.pdf. Question 46 was first published on May 13, 2020 and then revised twice in
 28 March 2021, before eventually being deleted from the FAQ in July 2021, after SBA discontinued the loan necessity questionnaire.

1 “control,” and it does not matter whether control is exercised so long as the power to control exists.

2 SBA applies four specific affiliation rules¹⁶ for purposes of the PPP size tests:

3 a. Affiliation based on ownership. For determining affiliation based on
4 equity ownership, a concern is an affiliate of an individual, concern, or entity that owns or has the
5 power to control more than 50% of the concern’s voting equity. If no individual, concern, or
6 entity is found to control, SBA will deem the board of directors or president or chief executive
7 officer (or other officers, managing members, or partners who control the management of the
8 concern) to be in control of the concern. SBA will deem a minority shareholder to be in control if
9 that individual or entity has the ability, under the concern’s charter, bylaws, or shareholders’
10 agreement, to prevent a quorum or otherwise block action by the board of directors or
11 shareholders. See 13 C.F.R. § 121.301(f)(1).

12 b. Affiliation arising under stock options, convertible securities, and
13 agreements to merge. For purposes of determining control and affiliation, options, convertible
14 securities, and agreements to merge (including agreements in principle) are considered effective as
15 if exercised or consummated, as the case may be, unless subject to conditions precedent which are
16 incapable of fulfillment, speculative, conjectural, or unenforceable under state or Federal law, or
17 where the probability of the transaction (or exercise of the rights) occurring is shown to be
18 extremely remote. Significantly, a person or entity that controls one or more other entities cannot
19 use options, convertible securities, or agreements to appear to eliminate control before actually
20 doing so. SBA will not give present effect to a person’s or entity’s ability to divest all or part of
21 its ownership interest in order to avoid a finding of affiliation. See 13 C.F.R. § 121.301(f)(2).

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28 ¹⁶ Affiliation Rules Applicable To U.S. Small Business Administration Paycheck Protection Program
<https://home.treasury.gov/system/files/136/Affiliation%20rules%20overview%20%28for%20public%29.pdf>

1 c. Affiliation based on management. Where the chief executive officer or
2 president of an entity (or other officers, managing members, or partners who control the
3 management of the entity) also controls the management of another entity, the two entities will be
4 deemed affiliates under common control. Where a single person or entity that controls the board
5 of directors or management of one entity also controls the board of directors or management of
6 another entity, the two entities will be deemed affiliates under common control. Where a person
7 or entity controls the management of another entity through a management agreement, the entities
8 are deemed affiliated. See 13 C.F.R. § 121.301(f)(3).
9

10 d. Affiliation based on identity of interest. Where there is an identity of
11 interest between close relatives with identical or substantially identical business or economic
12 interests (e.g., in the same or similar industry in the same geographic area), such interests are
13 presumed to be affiliated. This presumption may be rebutted with evidence showing that the
14 interests are separate. See 13 C.F.R. § 121.301(f)(4).
15

16 76. The affiliation based on management criterion (rule c. above) is particularly relevant here,
17 since where management of an entity is deemed to be an affiliate of a PPP applicant, all other affiliates
18 of that manager (e.g., all other companies managed by the manager) shall be deemed affiliates of that
19 PPP applicant.

20 77. Moreover, if the company is part of a family or series of companies under common
21 management control, the affiliates of those entities would also be deemed affiliates of the PPP applicant.
22 In many cases, such extended affiliation would make it impossible for the applicant to meet the size
23 standards for PPP eligibility 13 C.F.R. § 121.301(f)(3).
24

25 78. In addition, management companies are deemed affiliates of the companies they manage by
26 virtue of common management or common control, which renders them affiliates of the companies they
27 manage and may exclude that entire group of companies from PPP eligibility. In any of these situations,
28 a PPP applicant must account for affiliates in size determinations. Plaintiff contends that these rules

1 were disqualifying under the fact pattern pled here but were nonetheless conveniently overlooked when
 2 the certifications at issue were made and signed.

3 79. There are certain circumstances in which the affiliation rules do not apply. See 15 USCS
 4 § 636(a)(36)(D)(iv). Specifically, the CARES Act waives the affiliation rules with respect to the
 5 eligibility of a PPP applicant that is one of the following:

6 a. A business within NAICS category 72 that has no more than 500
 7 employees.

8 b. A franchise with a franchise identifier code assigned by SBA in the
 9 SBA Franchise Directory.
 10

11 c. A business that receives financial assistance from a small business
 12 investment company licensed by SBA ("SBIC"). It is alleged on information and belief that none
 13 of these statutory exceptions apply in the present action.

14 80. A company controlled by a management company may qualify for a PPP loan using the
 15 tangible net worth and net income test (described above), assuming the company and its affiliates, which
 16 would include the management company's other controlled companies, meet the tangible net worth and
 17 net income tests on a combined basis, or in the alternative, it meets the size standard (employee-based or
 18 receipts-based) established by SBA for the NAICS code applicable to either its primary industry or the
 19 primary industry of itself and its affiliates on a combined basis.
 20

21 **F. PPP Loan Terms**

22 81. PPP loans funded before the enactment of the Flexibility Act mature two years from the
 23 date of funding, see Interim Final Rule § 2(j), unless modified by the lender and borrower, see Flexibility
 24 Act § 2(b). PPP loans funded after the enactment of the Flexibility Act on June 5, 2020, mature five
 25 years after the date of funding. See Small Business Act § 7(a)(36)(K)(ii), as amended by Flexibility Act
 26 § 2.
 27
 28

1 82. No payments are due on a PPP loan until the SBA has paid the lender the amount of the
 2 PPP loan to be forgiven or notified the lender that no forgiveness will be allowed, but interest will accrue
 3 during that period. *See* 15 U.S.C. § 636(a)(36)(M)(ii), as amended by Flexibility Act § 3(c); Interim
 4 Final Rule § 2(n), as revised by IFR #17 § 1(c).

5 83. Thereafter, most banks will charge monthly or quarterly payments of principal and interest
 6 until maturity. However, any borrower that does not apply for forgiveness within ten months after the
 7 end of its eight-week or 24-week covered period must begin making payments of principal and interest
 8 on or after the expiration of that ten-month period. *See* 15 U.S.C. § 636(a)(36)(M)(v), as amended by
 9 Flexibility Act § 3(c).
 10

11 84. Lenders must notify borrowers when SBA pays the forgiveness amount or determines that
 12 no forgiveness is allowed. *See* Interim Final Rule § 2(n), as revised by IFR #17 § 1(c).
 13

14 **G. The PPP Loan Application and Required Certifications**

15 85. The PPP Loan Application form requires the applicant to certify its number of employees.

16 86. The PPP Loan Application form also requires the applicant to identify all its “owners,”
 17 defining that term to mean any member owning 20% or more of the equity of the applicant.
 18

19 87. The loan application requires an express certification that the applicant “has read the
 20 statements included in this form, including the Statements Required by Law and Executive Orders, and I
 21 understand them.”

22 88. The loan application also requires an express applicant’s certification that “[t]he [borrower]
 23 is eligible to receive a loan under the rules in effect at the time this application is submitted, that have
 24 been issued by the Small Business Administration (SBA) implementing the Paycheck Protection
 25 Program under Division A, Title I of the Coronavirus Aid, Relief, and Economic Security Act (CARES
 26 Act) (the Paycheck Protection Program Rule).”
 27
 28

1 89. The loan application also requires an express certification that the applicant “employs no
2 more than the greater of 500 or employees or, if applicable, the size standard (employee-based or
3 receipts-based) established by the SBA in 13 C.F.R. 121.201 for the Applicant’s industry.”

4 90. The loan application also requires an express certification that “[a]ll SBA loan proceeds
5 will be used only for business-related purposes as specified in the loan application and consistent with
6 the Paycheck Protection Program Rule.”

7 91. The loan application also requires the applicant to expressly certify that “[c]urrent
8 economic uncertainty makes this loan request necessary to support the ongoing operations of the
9 Applicant.”

10 92. The loan application also requires the applicant to expressly certify that “[t]he funds will be
11 used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and
12 utility payments, as specified under the Paycheck Protection Program Rule; I understand that if the funds
13 are knowingly used for unauthorized purposes, the federal government may hold me legally liable, such
14 as for charges of fraud.”

15 93. The loan application also requires the applicant to expressly certify that “the information
16 provided in this application and the information provided in all supporting documents and forms is true
17 and accurate in all material respects” and that “[the applicant] understand[s] that knowingly making a
18 false statement to obtain a guaranteed loan from SBA is punishable under the law, including under 18
19 USC 1001 and 3571 by imprisonment of not more than five years and/or a fine of up to \$250,000; under
20 15 USC 645 by imprisonment of not more than two years and/or a fine of not more than \$5,000; and, if
21 submitted to a federally insured institution, under 18 USC 1014 by imprisonment of not more than thirty
22 years and/or a fine of not more than \$1,000,000.”

23 94. The loan application also requires the applicant to expressly certify that “[the applicant]
24 acknowledge[s] that the lender will confirm the eligible loan amount using required documents
25 submitted.”

26 95. The loan application requires an authorized representative of the applicant to sign.
27
28

1 96. As noted, at least with respect to larger companies and businesses owned by private
2 companies with adequate sources of liquidity, the SBA has indicated that applicants must take into
3 account “their current business activity and their ability to access other sources of liquidity sufficient to
4 support their ongoing operations in a manner that is not significantly detrimental to the business.” *See*
5 SBA FAQ Questions 31 (published April 23, 2020) and 37 (published April 29, 2020). Accordingly, in
6 making the express certification, applicants are required to consider their need for PPP funding in light
7 of SBA FAQ Question 31, stated above.
8

9 97. Absent the applicable express certifications for a PPP loan as described above, the
10 applicant is not eligible to receive PPP loan funds and the lender cannot approve, nor the SBA
11 accept/authorize funding of the PPP loan.

12 98. Each of the foregoing PPP loan application certifications is a material condition to SBAs
13 approval and payment of any claim submitted under the PPP. SBA does not review PPP loan
14 applications for approval prior to the loan funds being disbursed; instead, it relies on its lenders to
15 comply with SBA requirements and to ensure that every loan is in fact eligible for the PPP. The
16 certifications are required for approval of the PPP loan application and for each applicant to receive
17 payment of PPP loan funds. The certifications are critical to SBA’s and the United States’ ability to
18 ensure that only qualified and eligible loans are approved and paid. These certifications are needed to
19 protect SBA and the United States from undue risk, loss and fraud.
20

21 99. The SBA permitted any borrower that received a PPP loan and found upon reconsideration
22 that it could not make the required certification in light of SBA’s guidance, to repay the PPP loan in full
23 by May 18, 2020. According to the SBA, it would deem any borrower that repaid by May 18, 2020, to
24 have made the required certification of need in good faith. *See* IFR #4 § III (5) as modified by IFR #9 §
25 III and IFR #13 § III (1); SBA FAQ Question 31 (published April 23, 2020), as modified by SBA FAQ
26 Question 43 (published May 5, 2020) and SBA FAQ Question 47 (published May 13, 2020).
27

28 100. On May 13, 2020, the SBA published FAQ Question and Answer 46 (“FAQ 46”), which
provides a new safe harbor based on the principal amount of PPP loans received by a borrower and its

1 affiliates: “Any borrower that, together with its affiliates, received PPP loans with an original principal
 2 amount of less than \$2 million will be deemed to have made the required certification concerning the
 3 necessity of the loan request in good faith.” (Affiliation for this purpose is determined based on the rules
 4 that apply for determining eligibility for a PPP loan, as announced in IFR #2.)

5 101. FAQ 46 also gives PPP borrowers with loans greater than \$2 million that do not satisfy the
 6 new safe harbor a means to limit their exposure to sanctions from the SBA. If the SBA determines that
 7 such a borrower did not have an adequate basis for the certification of need, SBA will notify the
 8 borrower and seek repayment in full of the PPP loan and tell the lender that the borrower is not eligible
 9 for loan forgiveness. FAQ 46 provides that SBA will not pursue further administrative enforcement or
 10 refer the borrower to other governmental agencies based on its determination regarding the certification
 11 of need if the borrower repays the loan in full after receiving notification from SBA. *See* SBA FAQ
 12 Question 46 (published May 13, 2020).
 13

14 102. Notably, repaying the loan pursuant to FAQ 46 does not shield the borrower from all
 15 potential liability. FAQ 46 merely states that SBA will not pursue additional action based on a
 16 determination that the borrower lacked an adequate basis for the certification of need. A borrower is still
 17 liable if there are other violations of the PPP statute or implementing regulations. Further, nothing in
 18 FAQ 46 prevents the Government or a *qui tam* relator or whistleblower who believes that the borrower
 19 knowingly made a false statement in connection with its PPP loan application from bringing a complaint
 20 under the False Claims Act.
 21

22 23 **VI. HUMANGOOD NORCAL’S FALSE AND FRAUDULENT CLAIMS SURROUNDING** 24 **ITS APPLICATION FOR, RECEIPT OF, AND FAILURE TO REPAY PPP FUNDS**

25 **A. The False Claims Act Defines “Knowingly”**

26 103. The False Claims Act defines “knowingly” to mean that a person “(i) has actual knowledge
 27 of the information; (ii) acts in deliberate ignorance of the truth or falsity of the information; or (iii) acts
 28

1 in reckless disregard of the truth or falsity of the information.” 31 U.S.C. § 3729(b)(1)(A). The False
 2 Claims Act provides that no proof of specific intent to defraud is required. 31 U.S.C. § 3729(b)(1)(B).

3 **B. HumanGood NorCal Falsely Certified the Necessity of Its PPP Loan**

4 104. As noted above with citations, applicants for PPP funds must make several express
 5 certifications when applying for loans and loan forgiveness. One of those express certifications is that
 6 the “[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations
 7 of the Applicant.” The borrower’s requirement for a certification of “necessity” is found in the CARES
 8 Act.” 15 U.S.C. § 636(a)(36)(G).

9
 10 105. Because the SBA and Congress both require an express certification of necessity to
 11 determine eligibility, and thoroughly discussed that certification in its guidance to borrowers, a false
 12 certification of necessity can be interpreted as “knowingly” (see § A. above) making a materially false
 13 misrepresentation which would, of necessity, influence the Government’s (SBA’s) decision to approve a
 14 PPP loan.

15 106. The SBA admonishes, in its clearly-written instructions, that: “all borrowers should
 16 carefully review the required certification [of necessity] on the Paycheck Protection Program Borrower
 17 Application Form (SBA Form 2483) stating that the “[c]urrent economic uncertainty makes this loan
 18 request necessary to support the ongoing operations of the Applicant.” See IFR #4 § III(2)(b).

19
 20 107. SBA FAQ 31 (published April 23, 2020) explains that applicants, when making the PPP
 21 loan necessity certification, should “tak[e] into account their current business activity and their ability to
 22 access other sources of liquidity sufficient to support their ongoing operations in a manner that is not
 23 significantly detrimental to the business.”

24 108. SBA FAQ Question 37 extends SBA FAQ Question 31 to all businesses owned by private
 25 companies with adequate sources of liquidity. See SBA FAQ Question 37 (published April 29, 2020).

26 109. Despite that PPP loans were created as a lifeline for “small businesses,” many relatively
 27 large organizations such as HumanGood NorCal claimed PPP funds while making false representations
 28 and certifications as to their size. The legal metrics for what constitutes a small business are precisely

1 defined by the laws and regulations setting business size standards for PPP loan eligibility. When, as
2 here, the core facts of those size metrics are misrepresented, the offending organizations obtain their PPP
3 loans through material fraud in the inception; in addition to being, *per quod*, ineligible to receive the
4 funding, even disregarding that fraud.

5 110. Relator is informed and believes and thereon alleges that HumanGood NorCal and co-
6 defendants falsely certified in their applications that PPP loans were “necessary” to support their
7 ongoing operations” when in-actual fact, they were not.

8 111. Relator is informed and believes and thereon alleges that HumanGood NorCal and its co-
9 defendants made their necessity certifications without taking into account other sources of liquidity to
10 support their operations and without evaluating whether the PPP funds were genuinely needed to cover
11 allowed expenses, as those are defined by statute, regulation and written guidance.

12 112. When applying for PPP loans and PPP loan forgiveness, the Defendants knew that the PPP
13 loans applied for were unnecessary for their economic survival during the Coronavirus pandemic and
14 that they did not qualify under SBA rules and eligibility standards to receive the loan funding they
15 accepted.

16 113. Plaintiff/Relator is informed and believes that the Government relied upon Defendant’s
17 false certifications and representations regarding the necessity of PPP funds for their ongoing operations,
18 when approving the loans. The false certifications and representations allowed HumanGood NorCal and
19 its co-defendants to obtain PPP loan funds to which they were not entitled, and to subsequently receive
20 loan forgiveness, despite being wholly un-qualified for that relief, or for the predicate loan.

21 114. HumanGood NorCal and co-defendants’ false certifications were material, as those false
22 certifications were essential to their supposed “eligibility” for PPP loan funding. Because these
23 certifications fundamentally influenced SBA’s decision to allow loan forgiveness, they are separately
24 actionable from other elements of Relator’s case in-chief.

25 115. HumanGood NorCal and co-defendants’ total revenue for the 2019 fiscal year (01-01-2019
26 to 12-31-2019) was \$472,212,401. Their total revenue for the 2020 fiscal year (01-01-2020 to
27
28

12-31-2020) was \$479,217,636. Their total revenue for the 2021 fiscal year (12-01-2021 to 12-31-2021) was \$505,461,868, a net, year-on year increase, which does not support the supposed necessity claimed.

116. HumanGood NorCal and co-defendants' net assets for the 2019 fiscal year (01-01-2019 to 12-31-2019) were -\$82,280,093. Their net assets for the 2020 fiscal year (01-01-2020 to 12-31-2020) were \$ -\$70,139,335. Their net assets for the 2021 fiscal year (12-01-2021 to 12-31-2021) were -\$27,175,446, a substantial net, year-on year increase, which does not support the supposed necessity claimed.

117. The above-pled aggregate narrative of false certifications, misrepresentations and concealment, their materiality, and the Governments clear reliance thereon, present grounds for a finding that Defendant's false certification of necessity when acquiring and seeking forgiveness of their PPP loans, requiring call for redress under law in this action.

C. HumanGood NorCal Falsely Certified Compliance with the PPP Size and Affiliation Rules

118. The CARES Act expressly limits PPP loans to businesses with fewer than 500 employees or those otherwise qualifying as a small business concern under other SBA standards, with certain limited exceptions, recited above, mentioned in paragraphs 119 and 120 below, and not operative here.

119. For example, on its own (i.e., regardless of its affiliates), a company meets the size standard (employee-based or receipts-based) established by SBA for the NAICS code applicable to its primary industry, and together with its affiliates, it meets the size standard (employee-based or receipts-based) established by SBA for the NAICS code applicable to either its primary industry or the primary industry of itself and its affiliates on a combined basis, whichever standard is higher.

120. The "alternative size standard" for PPP loans also allows businesses to qualify if, as of March 27, 2020, the maximum tangible net worth of the business is not more than \$15 million) and their average net income after federal income taxes for the two full fiscal years before the date of the application was not more than \$5 million.

121. According to the SBA's affiliation rules, businesses must include the employees of affiliate businesses in their size determinations (underscore supplied). *See* 13 C.F.R. § 121.301(f); Affiliation Guidance.

D. Facts Supporting Affiliation Among Defendants

122. The affiliated entities share Officers, Directors, and Operators who manage the affiliated companies.

123. John H Cochrane III was the President and CEO of all the Defendant companies at the time the Defendant companies applied for and received PPP loans.

124. Danial Ogus was the Chief Operation Officer of all the Defendant companies at the time the Defendant companies applied for and received PPP loans.

125. Andrew McDonald was the Chief Financial Officer of all the Defendant companies at the time the Defendant companies applied for and received PPP loans.

126. Fleming Meng was the Chief Information Officer of all the Defendant companies at the time the Defendant companies applied for and received PPP loans.

127. HumanGood is a California nonprofit public benefit tax-exempt corporation providing housing, healthcare and supportive services for seniors through its LPCs and affordable housing communities. HumanGood is the sole member of HumanGood Cornerstone, HumanGood Fresno (dba Terraces at San Joaquin Gardens), HumanGood SoCal (SoCal) and HumanGood NorCal (NorCal). NorCal is the sole member of HumanGood Foundation West and SoCal is the sole member of HumanGood Foundation South. HumanGood Fresno, HumanGood SoCal and HumanGood NorCal together constitute an obligated group (HumanGood California Obligated Group or COG).

128. HumanGood Cornerstone (a Member of HumanGood), a California nonprofit public benefit tax-exempt corporation, is the sole member and exercises its direction and control through the appointment of the Board of Directors of the Corporation, HumanGood Arizona, Inc. (dba Terraces of Phoenix), HumanGood Washington (dba Judson Park), HumanGood Nevada (dba Las Ventanas),

HumanGood Idaho (dba Terraces of Boise), HumanGood Properties, HumanGood East, and HumanGood Affordable Housing. HumanGood Arizona, Inc. and HumanGood Washington together constitute an obligated group (HumanGood National Obligated Group).

129. HumanGood and HumanGood Cornerstone's Boards are composed of the same seven directors.¹⁷

130. Because Defendants shared Officers, Directors and Operators, they met the test of interlocking management and control relationships which made all co-defendants legally affiliates according to the federal rules.

131. These affiliations between all co-defendants, as detailed above, must be used to determine the size of the borrower for purposes of PPP loan eligibility. HumanGood NorCal knew or should have known that it did not meet the PPP loan eligibility standards due to the combined size of its company, considering the uncontroverted entity-affiliation facts alleged in paragraphs 122 and 130 above.

132. The CARES Act's limited waiver of the affiliation rules does not apply to HumanGood NorCal because HumanGood NorCal: (i) is not a business within NAICS category 72; (ii) is not a qualifying franchise; and (iii) does not have SBIC investment. *See* 15 USCS § 636(a)(36)(D)(iv). Thus, the affiliation rules apply to HumanGood NorCal and its affiliate companies, co-defendants herein.

E. Factual Allegations

133. HumanGood NorCal violated the PPP rules by applying for more than one PPP loan.

134. Lenders would not have funded or forgiven multiple loans for HumanGood NorCal had they been aware of this fact.

¹⁷ <https://www.humangood.org/hubfs/HumanGood%20-%20Terraces%20at%20Summitview%202023%20AUD%20Rpt.pdf> (see e.g. p. 6 of PDF)

1 135. This is a material term of the PPP loan application, as evinced by the Department of Justice
2 seeking both False Claims Act and Financial Institutions Reform, Recovery and Enforcement Act
3 penalties against entities and individuals who applied for and received multiple PPP loans.

4 136. A small business concern was only eligible for a First Draw PPP Loan if the business had
5 500 or fewer employees or the business met the SBA employee-based or revenue-based size standard for
6 the industry in which it operates (if applicable).

7 137. Upon information and belief, HumanGood NorCal and its co-defendant affiliates did not
8 qualify for a PPP loan under the employment test because it employed more than 500 employees, as
9 evinced by their own loan applications, and, upon information and belief, its combined annual receipts
10 exceeded the SBA limits.
11

12
13 **F. HumanGood NorCal and its co-defendant affiliates factually misreported the number of**
14 **their employees in their certified applications.**

15 138. Relator is informed and believes, and thereon alleges, that HumanGood NorCal, together
16 with its co-defendant affiliates, knowingly had more than 500 employees when they filed their PPP
17 applications. *See* 15 USCS § 636(a)(36)(D)(i)(I); SBA FAQ Question 44. According to Relator's
18 research, HumanGood NorCal, together with its affiliates, had approximately 5,577 employees and an
19 estimated annual gross revenue of over \$479,217,636 (Four Hundred Seventy-Nine Million, Two
20 Hundred Seventeen Thousand, Six Hundred Thirty-Six Dollars) when they filed their PPP applications.
21 The Defendants' employee count exceeded the SBA standard by 1,115% (One Thousand One Hundred
22 Fifteen Percent) and these affiliated entities exceeded the revenue standard by 1,597% (One Thousand
23 Five Hundred Ninety-Seven Percent).
24

25 139. HumanGood NorCal reported 500 employees in its PPP application. Upon Relator's
26 information and belief, HumanGood NorCal had approximately 1,795 employees and an estimated
27 annual gross revenue of \$177,582,606 at the time of HumanGood NorCal's PPP application.
28

1 140. HumanGood SoCal reported 500 employees in its PPP application. Upon Relator's
2 information and belief, HumanGood SoCal had approximately 1,483 employees and an estimated annual
3 gross revenue of \$112,490,084 at the time of HumanGood SoCal's PPP application.

4 141. HumanGood Nevada reported 171 employees in its PPP application. Upon Relator's
5 information and belief, HumanGood Nevada had approximately 320 employees and an estimated annual
6 gross revenue of \$25,736,224 at the time of HumanGood Nevada's PPP application.

7 142. HumanGood Idaho reported 118 employees in its PPP application. Upon Relator's
8 information and belief, HumanGood Idaho had approximately 235 employees and an estimated annual
9 gross revenue of \$16,946,185 at the time of HumanGood Idaho's PPP application.

10 143. HumanGood Pennsylvania reported 500 employees in its PPP application. Upon Relator's
11 information and belief, HumanGood Pennsylvania had approximately 655 employees and an estimated
12 annual gross revenue of \$66,372,226 at the time of HumanGood Pennsylvania's PPP application.

13 144. HumanGood Fresno reported 212 employees in its PPP application. Upon Relator's
14 information and belief, HumanGood Fresno had approximately 374 employees and an estimated annual
15 gross revenue of \$30,674,767 at the time of HumanGood Fresno's PPP application.

16 145. HumanGood Arizona Inc. reported 175 employees in its PPP application. Upon Relator's
17 information and belief, HumanGood Arizona Inc. had approximately 342 employees and an estimated
18 annual gross revenue of \$23,216,711 at the time of HumanGood Arizona Inc.'s PPP application.

19 146. HumanGood Washington reported 198 employees in its PPP application. Upon Relator's
20 information and belief, HumanGood Washington had approximately 373 employees and an estimated
21 annual gross revenue of \$26,198,833 at the time of HumanGood Washington's PPP application.

22 147. HumanGood NorCal and its affiliates knowingly failed to meet the SBA revenue-based size
23 standard for the NAICS code applicable to its primary industry of \$30 million dollars. HumanGood
24 NorCal's NAICS code is 623311 ("Continuing Care Retirement Communities"), and the applicable
25 revenue-based business size standard for code 623311 is \$30 million dollars in gross revenue.

26 Accordingly, HumanGood NorCal was disqualified from receiving the loan because it exceeded the
27
28

1 NAICS size standard. HumanGood NorCal and its affiliates far exceeded the maximum allowable
2 amount, \$30 Million dollars, with a combined affiliate income of \$479,217,636 (Four Hundred Seventy-
3 Nine Million, Two Hundred Seventeen Thousand, Six Hundred Thirty-Six Dollars), which is 1,579%
4 (One Thousand Five Hundred Seventy-Nine Percent) in excess of the SBA limit. HumanGood NorCal,
5 and its affiliates knew from their financial records that they fraudulently misreported their size, revenue,
6 and number(s) of employees, all in direct violation of the FCA.

7
8 148. HumanGood NorCal and its co-defendant affiliates' primary industry is not NAICS
9 category 72 (accommodations and food service). See 15 USCS § 636(a)(36)(D)(iii). Accordingly,
10 HumanGood NorCal could not rely on that category's divergent and lower business size-standard test to
11 qualify for PPP loans.

12 149. HumanGood NorCal, together with its affiliates, does not meet the receipts/revenue-based
13 size standard established by SBA for the NAICS code applicable to its primary industry (623311), and,
14 together with its affiliates, it does not meet the receipts/revenue-based size standard established by SBA
15 for the NAICS code applicable to the higher of its primary industry or the primary industry of itself and
16 its affiliates on a combined basis. 21 See 13 C.F.R. § 121.301(a); SBA FAQ Question 2. The applicable
17 revenue-based size standard of \$30 million dollars in gross revenue was exceeded 1,579% (One
18 Thousand Five Hundred Seventy-Nine Percent) in the case of the PPP loan applications submitted by
19 Defendants.
20

21 150. Based on the foregoing, HumanGood NorCal (and its co-defendant affiliates) knowingly
22 and fraudulently misrepresented their employee count, their compliance with the PPP size and affiliation
23 rules, and their eligibility for PPP loans.

24 151. HumanGood NorCal (and its co-defendant affiliates) knowingly made false certification of
25 employee counts, and/or gross revenues, which were material and relied upon by the Government.
26 Those false certifications affected its (and its co-defendant affiliates') eligibility for the PPP loans and, in
27 turn, influenced the SBA's decision to approve those loans.
28

1 152. Additionally, based on the foregoing, upon Relator's information and belief, HumanGood
2 NorCal's other affiliated companies, HumanGood SoCal, HumanGood Nevada, HumanGood Idaho,
3 HumanGood Pennsylvania, HumanGood Fresno, HumanGood Arizona Inc., and HumanGood
4 Washington also knowingly miscalculated and misrepresented their employee-count, and gross revenues,
5 their compliance with the PPP size and affiliation rules, and their eligibility for a PPP loan.

6 153. HumanGood NorCal knowingly, falsely, and fraudulently certified that it was in
7 compliance with the applicable size, employee count, gross revenue, and affiliation rules applicable to
8 PPP loans when, in fact, it knew it was not in compliance with those rules.

9 154. The government relied on the false certifications and representations made by HumanGood
10 NorCal and its co-defendant affiliates regarding their size, finances, and affiliations, allowing
11 HumanGood NorCal and its co-defendant affiliates to obtain PPP funds to which they were not entitled
12 and to avoid repaying those funds when thus not qualified for loan forgiveness.
13

14
15 **G. HumanGood NorCal Failed to Repay PPP Loan Funds for Which It Was Not Entitled to**
16 **Forgiveness**

17 155. Relator is informed and believes, and thereon alleges, that HumanGood NorCal and its co-
18 defendant affiliates were ineligible to receive PPP loans and subsequently failed, given the opportunity,
19 to repay the wrongfully acquired PPP loan funds received, which they were, knowingly, *ab initio*,
20 ineligible for.
21

22 156. Based on Relator's information and belief, HumanGood NorCal and its co-defendant
23 affiliates did not take advantage of the SBA's safe harbor (repayment) provisions, which would allow
24 borrowers to repay their misbegotten PPP loans by May 18, 2020, and, by so doing, cannot be deemed to
25 have made their required certifications of need in good faith. IFR #4 § 5, as modified by IFR #9 and IFR
26 #13 § 1; SBA FAQ 31, as modified by FAQ Question 43 and FAQ Question 47.
27
28

157. Moreover, because the loans received and retained by HumanGood NorCal and its co-defendant affiliates exceeded two million dollars (\$2,000,000), the statutory good faith safe harbor provision relating to necessity was unavailable to them. SBA FAQ Question 46.

158. The HumanGood NorCal and its co-defendant affiliates also knowingly and fraudulently avoided and/or wrongfully concealed their clear obligations to return PPP loan funds to the Government. Loan forgiveness was not legally available to them.

VII. LEGAL CLAIMS

A. COUNT I Violation of the False Claims Act (31 U.S.C. § 3729(a)(1)(A))

159. Relator repeats and realleges each of the foregoing paragraphs and allegations as though fully set forth herein.

160. HumanGood NorCal, HumanGood SoCal, HumanGood Nevada, HumanGood Idaho, HumanGood Pennsylvania, HumanGood Fresno, HumanGood Arizona Inc., and HumanGood Washington, all, jointly and severally, violated the False Claims Act, 31 U.S.C. § 3729(a)(1)(A), by knowingly presenting and/or causing to be presented to the SBA false and/or fraudulent claims for payment or approval in connection with their applications for, receipt of (and failure to repay) PPP loans.

161. Upon Relator's information and belief, the United States paid, authorized, and/or approved the false and/or fraudulent claims submitted by defendants because of and reliance on defendants HumanGood NorCal, HumanGood SoCal, HumanGood Nevada, HumanGood Idaho, HumanGood Pennsylvania, HumanGood Fresno, HumanGood Arizona Inc., and HumanGood Washington concealments and (mis)representations, which payments, authorizations or approvals of PPP loans would not have been paid or approved but for all affiliated co-defendants' unlawful conduct. The Government, the SBA, as well as the United States Taxpayers, all incurred substantial and provable monetary damages because of Defendants' fraudulent misconduct, in total amounts according to proof.

162. HumanGood NorCal, HumanGood SoCal, HumanGood Nevada, HumanGood Idaho, HumanGood Pennsylvania, HumanGood Fresno, HumanGood Arizona Inc., and HumanGood

1 Washington conduct was knowing, in that all affiliated co-defendants had actual or constructive
2 knowledge that the claims, certifications, and statements made in connection with their applications for
3 PPP loans and/or PPP loan forgiveness, were false and fraudulent and, all co-defendant affiliates
4 nevertheless intentionally submitted those false and fraudulent claims, certifications, and statements in
5 order to receive and/or retain funds to which they were not legally entitled.
6

7
8 **B. COUNT II Violation of the False Claims Act (31 U.S.C. § 3729(a)(1)(B))**

9 163. Relator repeats and realleges each of the foregoing paragraphs and allegations as though
10 fully set forth herein.

11 164. The named and affiliated Co-Defendants, HumanGood NorCal, HumanGood SoCal,
12 HumanGood Nevada, HumanGood Idaho, HumanGood Pennsylvania, HumanGood Fresno,
13 HumanGood Arizona Inc., and HumanGood Washington, all, both independently, jointly and severally,
14 violated the provisions of the False Claims Act, 31 U.S.C. § 3729(a)(1)(B) by knowingly making, using
15 or causing to be made or used, false records, certifications of fact or statements: (i) material to false or
16 fraudulent claims for payment of loans, by lenders, authorized by the SBA; and/or (ii) in order to
17 fraudulently induce PPP loan funding to be paid or approved; and (iii) which claims the United States
18 did in-fact pay or approve, all in connection with HumanGood NorCal and its co-defendant affiliates'
19 receipt of (and failure to repay) PPP loans.
20

21 165. Upon Relator's information and belief, the United States paid or approved Defendants'
22 false and/or fraudulent claims and applications because of HumanGood NorCal, HumanGood SoCal,
23 HumanGood Nevada, HumanGood Idaho, HumanGood Pennsylvania, HumanGood Fresno,
24 HumanGood Arizona Inc., and HumanGood Washington acts and representations, which funding would
25 not have been paid or approved but for all defendant affiliated entities' unlawful and fraudulent conduct,
26 thereby incurring monetary damages as a result, as herein set forth and according to further proof.
27

28 166. HumanGood NorCal and all its co-defendant affiliate entities had actual or constructive
knowledge that the claims, certifications, and statements made in connection with their application for

1 PPP loans and/or PPP loan forgiveness were false and fraudulent. HumanGood NorCal, along with all its
2 co-defendant affiliate entities, nevertheless intentionally submitted those claims, certifications, and
3 statements in order to receive and/or retain funds to which they were not legally entitled.

4 **C. COUNT III Violation of the False Claims Act's Reverse False Claims Provision (31 U.S.C.**
5 **§ 3729(a)(1)(G))**

6 167. Relator repeats and realleges each of the foregoing paragraphs and allegations, as though
7 fully set forth herein.

8 168. Defendants, HumanGood NorCal, HumanGood SoCal, HumanGood Nevada, HumanGood
9 Idaho, HumanGood Pennsylvania, HumanGood Fresno, HumanGood Arizona Inc., and HumanGood
10 Washington violated the so-called "reverse false claim" provision of the False Claims Act, 31 U.S.C. §
11 3729(a)(1)(G), by knowingly making or using a false record or statement for the purpose of avoiding or
12 decreasing an obligation owed to the United States in connection with their receipt of (and failure to
13 repay) PPP loans.

14 169. Defendants, HumanGood NorCal, HumanGood SoCal, HumanGood Nevada, HumanGood
15 Idaho, HumanGood Pennsylvania, HumanGood Fresno, HumanGood Arizona Inc., and HumanGood
16 Washington retained overpayments or avoided an obligation to repay PPP loan funds to the Government,
17 and the United States incurred substantial monetary damages as a result.

18 170. Defendants, HumanGood NorCal, HumanGood SoCal, HumanGood Nevada, HumanGood
19 Idaho, HumanGood Pennsylvania, HumanGood Fresno, HumanGood Arizona Inc., and HumanGood
20 Washington, and their affiliated co-defendants had actual or constructive knowledge that the claims,
21 certifications, and statements made in connection with their applications for PPP loan forgiveness were
22 false and fraudulent, and nevertheless intentionally submitted those claims, certifications, and statements
23 in order to retain and avoid repayment of funds to which they were not legally entitled.
24
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171. The acts, statements, certifications, and concealments herein alleged were made in knowing violation of cited sections of the FCA and other relevant laws and regulations, directly and proximately causing the monetary and other damages claimed by plaintiffs, justifying the relief sought below.¹⁸

RELIEF REQUESTED

WHEREFORE, Relator, acting on behalf of and in the name of the United States and on its own behalf, demands and prays that judgment be entered against HumanGood NorCal, HumanGood SoCal, HumanGood Nevada, HumanGood Idaho, HumanGood Pennsylvania, HumanGood Fresno, HumanGood Arizona Inc., and HumanGood Washington as follows:

That HumanGood NorCal, HumanGood SoCal, HumanGood Nevada, HumanGood Idaho, HumanGood Pennsylvania, HumanGood Fresno, HumanGood Arizona Inc., and HumanGood Washington cease and desist from further violating the False Claims Act, 31 U.S.C. §§ 3729 et seq;

A. That HumanGood NorCal, HumanGood SoCal, HumanGood Nevada, HumanGood Idaho, HumanGood Pennsylvania, HumanGood Fresno, HumanGood Arizona Inc., and HumanGood Washington pay an amount equal to three times the amount of damages the United States has sustained because of the Defendants' actions, plus civil penalties as are required by law in the amount of not less than \$11,665 and not more than \$23,331 for violation of the False Claims Act.;

B. That Defendants return to the Government all of their ill-gotten loan proceeds in the approximate sum, as hereafter calculated, in excess of \$31,808,157 (Thirty-One Million Eight Hundred Eight Thousand One Hundred Fifty-Seven Dollars);

¹⁸ Relator acknowledges that it lacks authority or influence around potential charging decisions relating to the offenses discussed here. A fulsome discussion of remedies would seem remiss without reference to criminal charges and penalties potentially associated with these allegations. Those include, without limitation: Violation of the FCA 31 U.S.C. §§3729–3733; Making False Statements to the SBA 18 U.S.C. §1014; Making False Statements to an FDIC-Insured Bank 18 U.S.C. § 1014; Bank Fraud 18 U.S.C. § 1344; Wire Fraud 18 U.S.C. § 1343; Tax Evasion (26 U.S.C. § 7201; and Conspiracy 18 U.S.C. § 371 & 18 U.S.C. § 1349.

1 C. That Defendants reimburse the SBA for loan processing fees paid to the lender banks in
2 the amount of \$314,797 (Three Hundred Fourteen Thousand Seven Hundred Ninety-Seven
3 Dollars)

4 D. Pre-judgment and post-judgment interest;

5 E. That Relator be awarded the maximum sum authorized in 31 U.S.C. § 3730(d)(1)-(2);

6 F. That Relator be awarded all costs of this action, including attorneys' fees, expenses, and
7 costs pursuant to 31 U.S.C. § 3730(d); and
8

9 G. That The United States and Relator be granted such other and further relief as the Court
10 deems just and appropriate.
11

12 **RELATOR HEREBY DEMANDS A TRIAL BY JURY FOR ALL ISSUES SO TRIABLE**

13 Respectfully submitted,

14 Relator/Plaintiff: TAXPAYERS AGAINST FRAUD, LLC.
15

16 Date: September 09, 2024

By their attorney;

17
18 

19 Arthur Egbert Fisher, Esq.
20 A Fisher Legal Services, Inc., A.P.C.
21 Attorney for Plaintiff-Relator
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